



THE CITY OF SAN DIEGO  
**MANAGER'S REPORT**

DATE ISSUED: October 18, 2000 REPORT NO. 00-214

ATTENTION: Honorable Mayor and City Council  
Docket of October 24, 2000

SUBJECT: Grant of Competitive Cable Television Franchise Agreement with  
RCN Telecom Services

REFERENCE: City Manager's Report 00-173 September 1, 2000

SUMMARY

Issue - Should the City Council approve a competitive Citywide cable television franchise agreement with RCN Telecom Services.

Manager's Recommendation - Approve the cable television franchise agreement.

Other Recommendations - None.

Fiscal Impact - Due to an increase in the franchise fee percentage for Right-of-Way use, the City will realize a 40% increase in cable television franchise fee revenues on subscribers that switch from the existing incumbent cable television companies to the services provided by RCN. Overall cable television subscribership may also increase with the advent of competitive system marketing and new cable television technology services available to customers. Technology grant provision of this new franchise provides for a cash grant of \$540,000 to the City for closed captioning, PEG access channels, and institutional network equipment.

## BACKGROUND

The City of San Diego currently maintains cable television franchise agreements with Cox Communications and Time Warner Cable, granting each provider the ability to utilize City streets, alleyways and other public Right-of-Way property for providing cable television services. The City's existing cable television franchises are non-exclusive allowing for the granting of additional competitive franchises. In June, 2000, the City Council adopted the City's first competitive cable television franchise agreement with Western Integrated Networks of California for the construction and operation of a competitive cable television system in all areas of the City. On August 24, 2000, the City of San Diego received a second cable television system application from RCN Telecom Services (RCN) to provide competitive cable television services Citywide.

RCN proposes to develop and construct an advanced technology network that will have the capability of providing a number of "bundled" broadband cable television and telecommunications services including analog and digital video service, high-speed Internet service, and local/long distance telephone services. RCN's system construction architecture will consist mostly of fiber-optic network technologies and will be installed in a manner similar to existing cable television companies maintaining all construction requirements and environmental procedures as mandated by the City.

RCN Corporation and its subsidiaries were among the first facilities-based telecommunications providers to provide bundled and unbundled video and telecommunications services in direct competition with incumbent service providers. Currently, RCN Corporation and its subsidiaries operate or hold an interest in numerous cable television and/or open video systems in California, Illinois, Massachusetts, New York, New Jersey, Pennsylvania, and Washington D.C.

City Council Policy on Telecommunications (Policy #900-13) promotes a competitive marketplace and consumer choice of service providers with regard to cable television and other broadband communications services. The federal Telecommunications Act prohibits the City from establishing unreasonable barriers to entry for new telecommunications service providers.

## DISCUSSION

The City's Cable Television Office of the Department of Information Technology and Communications has reviewed the technical, financial, and legal qualifications of RCN to be a competitive cable service provider in the City of San Diego. Staff has also considered the economic, aesthetic, and disruptive impact of RCN's proposed cable system and the cable television related needs of the community. Staff has determined that RCN's proposed system would not have unreasonable adverse economic or aesthetic impacts on public Right-of-Way and would not cause unreasonable disruption or inconvenience to existing or future use of utility poles or public easements contrary to the California Public Utilities Code.

Staff has negotiated a competitive cable television franchise agreement under terms similar to the City's existing competitive franchise with Western Integrated Networks. Terms of the proposed

franchise agreement between the City and RCN include the following:

- Term of 15 years
- Right-of-Way Usage Fee or “franchise fee” of 5% on all revenues with the exception of telephony services, and those services where such fees are prohibited by law
- 5 year build-out plan Citywide
- 9 dedicated access channels for government, educational, and public use
- 3 Secure digital PEG sources for City use
- Video and high-speed Internet service to all City facilities, leased City facilities, and public schools at no cost
- Institutional video/data service network connecting all City Fire Facilities
- Capital Grant of \$540,000 for closed captioning, PEG Access, and I-Net equipment
- Security fund and liquidated damages for franchise non-compliance
- Requirements for coordination with other telecommunications service providers during system construction

RCN’s franchise mandates a five year build-out that will be Citywide. This project will be subject to full CEQA review by the City prior to the commencement of construction. The environmental impact review, therefore, is not under consideration at this time.

Federal Communications Commission studies have shown that cable television service prices have stabilized or decreased in those communities where competition exists. The advent of competitive cable television providers in the City of San Diego should produce a favorable impact on service pricing and the choice of services available to the community.

#### ALTERNATIVE

Do not approve the granting of a competitive cable television franchise with RCN Telecom Services and return the issue to the City Manager.

Respectfully submitted,

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Submitted by: RICHARD E. WILKEN  
Information Technology and  
Communications Director

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Approved: DIANA NEFF  
Deputy City Manager  
Chief Information Officer

WILKEN/MSJ

ATTACHMENT: 1. Competitive Cable Television Franchise Agreement